

REMARKS

By this Amendment, claim 1 has been amended, and claims 3-5 have been cancelled. Accordingly, claims 1 and 2 are pending in the present application.

The Office Action's indication that the references cited in the specification have not been considered is noted. In response, Applicant submits herewith form PTO/SB/08A listing US Patent No. 6,006,486 corresponding to the EP1024234 reference cited in the specification. Accordingly, it is respectfully requested that the Examiner consider and officially make of record the reference cited in the attached form PTO/SB/08A.

The objection to claim 2 is noted. In response, claim 2 has been amended as helpfully suggested by the Examiner. Accordingly, withdrawal of this objection is respectfully requested.

Claims 1-2 stand rejected under 35 U.S.C. §112, second paragraph. In response, claims 1-2 have been amended to be in full compliance with all §112 requirements. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1 and 2 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,490,836 to Moriau et al. Applicant respectfully traverses this rejection.

Among the limitations of independent claim 1 which are neither disclosed nor suggested in the prior art of record is a fracture-proof flat clasping floorboard piece wherein "a V-shaped groove is provided in a lower surface of the slot mortise and a corresponding convexity is provided on a lower surface of the tenon; the convexity, in an insertion direction of the tenon, has an anti-self-locking oblique surface formed on a front end thereof; the anti-self-locking oblique surface forms a first angle with an upper surface of the floorboard strip; **the first angle ranging from 15-35°**" (emphasis added). The benefit to the use of such an angle is that the floorboard strips can be assembled in flat form, *i.e.*, horizontal assembly, and do not require rotation during installation.

In contrast to the assertions in the Office Action, it is respectfully submitted that Moriau et al. does not teach or suggest the first angle required by independent claim 1. On page 5 of the Office Action, it is contended that one of skill in the art would have discovered the optimum or workable ranges of the having a first angle between 15-35° through routine experimentation based on the disclosure of Moriau et al. Applicants respectfully disagree.

It is well established that a particular parameter must first be recognized as a result-effective variable, *i.e.*, a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977) See also MPEP §2144.05.

Specifically, there is no teaching or suggestion in Moriau et al. that the angle of surface 76 in Figs. 22-25 with respect to the upper surface of the floorboard has any particular importance. As such, Moriau et al. does not even recognize that an angle between 15-35° for this surface is a result effective variable. In contrast, the present inventors have discovered through much experimentation, that the claimed first angle range provides superior functionality in assembly, stability and safety in an assembled floor. Thus, since Moriau et al. does not recognize that the angle of surface 76 is a result effective variable, then a conclusion of routine experimentation can not be supported. Accordingly, it is respectfully submitted that independent claim 1 patentably distinguishes over the art of record for at least this reason.

In addition, Applicants respectfully submit that comparison of the angle A disclosed in Moriau et al. to the angle of surface 76 shown in Figs. 22-25 is improper because Moriau et al. does not disclose that the drawings are to scale.

When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000) (The disclosure gave no indication that the drawings were drawn to scale. “[I]t is well established that patent drawings do not define the precise proportions of the elements and may not

be relied on to show particular sizes if the specification is completely silent on the issue.”). See also, MPEP §2125.

While Moriau et al. does disclose that angle A is between 30-70°, there is no mention in Moriau et al. as to what exact angle is used in Figs. 22-25. Without such a disclosure that the drawings are to scale, reliance on the drawings of Moriau et al. to teach a specific angle of surface 76 is improper. As such, it is improper to use the drawings Moriau et al. to arrive at a conclusion that the invention defined in independent claim 1 is obvious. To do otherwise would be impermissible hindsight reasoning.

Moriau et al. simply does not recognize the optimal angle of 15-35° specifically set forth in independent claim 1. This is because, as shown in Fig. 24 and described at col. 11, lines 5-28, it is preferred that the floor panels of Moriau et al. are assembled with rotational movement so as to eliminate the need for a tool during assembly. While Moriau et al. does describe that the floor panels can be assembled in a lateral movement, such an assembly of the floor panels of Moriau et al. causes a significant deflection of the lower portion of the mortise as shown in Fig. 25, thereby increasing the amount of stress on the floor panels during installation, and increasing the possibility of breakage.

Therefore, it would not have been obvious to one of ordinary skill in the art to modify the Moriau et al. floor panel to have the surface 76 at an angle of 15-35° but for Applicant's disclosure of this optimal range. Accordingly, it is respectfully submitted that independent claim 1 patentably distinguishes over the prior art of record.

Claim 2 depends directly from independent claim 1 and includes all of the limitations found therein, as well as additional limitations which, in combination with the limitations of claim 1, are neither disclosed nor suggested in the art of record. Accordingly, claim 2 is likewise patentable.

In view of the foregoing, favorable consideration of the amendments to claims 1 and 2, and allowance of the present application with claims 1 and 2 is respectfully and earnestly solicited.

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Respectfully submitted,

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